

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

FREDERICK M DETWILER,

Plaintiff,

v.

JUDY SNOW, PAT "DOE," and the  
PIERCE COUNTY SHERIFF'S  
DEPARTMENT.

Defendants.

CASE NO. C14-5251 BHS-JRC

ORDER TO FILE AN AMENDED  
COMPLAINT

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff is attempting to sue the Pierce County Sheriff's Office in a civil rights action (Dkt. 1, proposed complaint). A sheriff's department is not an entity that can be sued in a civil rights action.

1 The Civil Rights Act, 42 U.S.C. § 1983, allows for suit against a person acting under the  
2 color of state law who deprives someone of rights, privileges or immunities secured by the  
3 constitution or laws of the United States. *Parratt v. Taylor*, 451 U.S. 527, 535, (1981) (overruled  
4 in part on other grounds); *Daniels v. Williams*, 474 U.S. 327, 330-31, (1986).

5 The Civil Rights Act, 42 U.S.C. § 1983 applies to actions of “persons” acting under color  
6 of state law. The language of §1983 is expansive and does not expressly incorporate common  
7 law immunities. *Owen v. City of Independence, Mo*, 445 U.S. 622, 627 (1980). Municipalities  
8 are subject to suit under § 1983. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658,  
9 690 (1978). However, “[i]n order to bring an appropriate action challenging the actions, policies  
10 or customs of a local governmental unit, a plaintiff must name the county or city itself as a party  
11 to the action, and not the particular municipal department or facility where the alleged violation  
12 occurred. See *Nolan v. Snohomish County*, 59 Wash. App. 876, 883, 802 P.2d 792, 796 (1990).”  
13 *Bradford v. City of Seattle*, 557 F. Supp.2d 1189, 1207 (W.D. Wash. 2008)(holding that the  
14 Seattle Police Department is not a legal entity capable of being sued under § 1983).

15 In Washington responsibility for operating a county or city jail is set forth by statute:

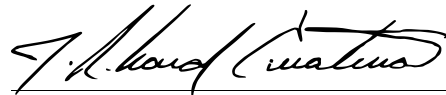
16 A city or county primarily responsible for the operation of a jail or jails may  
17 create a department of corrections to be in charge of such jail and of all persons  
18 confined therein by law, subject to the authority of the governing unit. If such  
19 department is created, it shall have charge of jails and persons confined therein. If  
no such department of corrections is created, the chief law enforcement officer of  
the city or county primarily responsible for the operation of said jail shall have  
charge of the jail and of all persons confined therein.

20 RCW 70.48.090(4). Thus, it appears the proper defendant would be Pierce County, not  
21 the Sheriff’s Department.

22 The Court orders that plaintiff file an amended complaint curing the defect in his  
23 filing. Plaintiff’s amended complaint will act as a complete substitute for the original and  
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1 not as a supplement. Plaintiff must file his amended complaint on or before April 25,  
2 2014 or the Court will recommend dismissal of this action for failure to comply with a  
3 Court order and failure to prosecute.

4 Dated this 28<sup>th</sup> day of March, 2014.

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7 J. Richard Creatura  
8 United States Magistrate Judge  
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